

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT)	PDC CASE NO: 01-219
ACTION AGAINST)	
)	
Amalgamated Transit Union Local 587 and)	Notice of Administrative
Amalgamated Transit Union Local 587)	Charges
No on I-745 Committee)	
Respondents.)	
_____)	

IT IS ALLEGED as follows:

I.
JURISDICTION

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Commission, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC.

II.
LAW

RCW 42.17.020(14)(a)(i) states: “‘Contribution’ includes a loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value including personal and professional services for less than full consideration;”

RCW 42.17.020(33) states: “‘Political committee’ means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.”

RCW 42.17.040(1) states in part: “Every political committee, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving

contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission and with the county auditor or elections officer of the county in which the candidate resides, or in the case of any other political committee, the county in which the treasurer resides.”

RCW 42.17.080 (1) states: “On the day the treasurer is designated, each candidate or political committee shall file with the Commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the treasurer resides, in addition to any statement of organization required under RCW 42.17.040 or 42.17.050, a report of all contributions received and expenditures made prior to that date, if any.”

RCW 42.17.080 and 42.17.090 also require on-going reports of all contribution and expenditure activity, including expenditures made in support of or opposition to candidates or ballot propositions, the source of the contributions, the disclosure of amounts owed for debts, obligations, notes, and unpaid loans or other liabilities.

III. **BACKGROUND**

On March 26, 2001, a “45-Day Notice of Violation” complaint letter was filed with the Office of the Attorney General and the Office of the King County Prosecutor by Monte Benham of Permanent Offense against King County, King County Department of Transportation, King County Transit, and Amalgamated Transit Union Local 587 (ATU Local 587). The complaint alleged that a special assessment was withheld from the paychecks of employees of King County, specifically employees who worked for King County Transit within the King County Department of Transportation, to fight Initiative 745 (a statewide initiative on the November 7, 2000 ballot) without first obtaining the required written authorization from each employee, an alleged violation of RCW 42.17.680. Both the Office of the Attorney General and the Office of

the King County Prosecutor referred the complaint to the Public Disclosure Commission (PDC) for investigation and appropriate disposition. On March 29, 2001, a similar complaint was received from David J. Cornelson, an employee of King County, who works for King County Transit within the King County Department of Transportation.

PDC staff investigated both complaints (Case #01-203 and Case #01-204). A combined enforcement hearing was held on May 22, 2001. The Commission accepted the parties' Stipulation of Facts. The Commission found that there were apparent multiple violations by the King County entities of RCW 42.17, in particular RCW 42.17.680 as implemented by WAC 390-17-100, but that the maximum penalty that could be assessed by the Commission was inadequate in light of the allegations and the stipulated evidence presented to the Commission at the hearing. The Commission referred the case to the Washington State Attorney General's Office. The Commission also found that Amalgamated Transit Union Local 587 did not violate RCW 42.17.680 as alleged because the union was not the employer and was not responsible for the disbursement of funds in payment of wages or salaries to King County workers.

During the investigation of Case #01-203 and Case #01-204, PDC staff became aware that ATU Local 587 had apparently solicited and accepted contributions from its members, and had used those funds to make contributions to oppose Initiative 745. As a result, on May 9, 2001, Vicki Rippie, Executive Director of the Public Disclosure Commission filed a complaint against ATU Local 587 alleging that it may have violated RCW 42.17.040 – 42.17.090 by failing to register and report as a political committee when it solicited and received special assessment funds from its members to oppose Initiative 745.

PDC staff reviewed the books and records of ATU Local 587 concerning special assessment funds received from its members and how those funds were handled. Staff also reviewed the completed investigation of Case #01-203 and Case #01-204 which included responses from King County, King County Department of Transportation, King County Transit, and ATU Local 587. PDC staff also reviewed interviews conducted in Case #01-203 and Case #01-204 with Monte Benham, Mary Peterson, Assistant Director of King County Transit, Mildred Llarenas, King County Payroll Supervisor, Paul Toliver, Director of the King County Department of Transportation, and Lance Norton, President of ATU Local 587.

IV. **FACTS**

These charges incorporate the Report of Investigation and all of its exhibits by reference.

On July 13, 2000, a letter was sent by facsimile from the ATU Legislative Council to the members of ATU Local 587. The letter explained the Union's position on I-745 and asked for approval of a \$50 assessment per member to finance a campaign against I-745. The letter said radio, TV and other costs were necessary to run an effective campaign.

On August 7, 2000, a notice was sent to ATU Local 587 members advising them of an upcoming informational forum regarding I-745. The notice said the forum would discuss the impacts of Initiative 745 and the special assessment vote proposed by the Executive Board to fight what it perceived to be a threat to public transit statewide. The notice said ATU Legislative Council President Mike Powell would be on hand to discuss plans to fight the initiative.

On August 14, 2000, Clifford Freed, an attorney for ATU Local 587, sent a letter to Paul Toliver, Director of the King County Department of Transportation, asserting the union's right to conduct a special election for an assessment to oppose Initiative 745. On August 16, 2000, ATU Local 587 sent a letter to Paul Toliver, advising him of the upcoming election. The special assessment

election was held August 24, 2000. The membership voted to have a special assessment of \$50 deducted from each member's pay at the rate of \$10 per pay period for five pay periods.

On August 25, 2000, Paul Griffin, Financial Secretary for ATU Local 587, notified King County Payroll Supervisor Mildred Llarenas that the union membership had elected to assess each member \$50 in special dues to "fight I-745."

King County withheld \$155,997.24 from the pay of ATU Local 587 members between September 28 and November 23, 2000. Approximately 3,000 employees had the special assessment withheld. Ms. Llarenas said approximately 240 union members signed a union waiver form and did not have the special assessment withheld. King County Payroll remitted the special assessment funds to ATU Local 587.

ATU Local 587 established a separate bank account called "ATU Local 587 No on I-745 Committee." On September 14, 2000, an initial deposit was made into that account, a \$10,000 transfer from the general fund of ATU Local 587. In addition, on October 3, 2000, and again on October 12, 2000, \$50,000 was transferred from the ATU Local 587 general fund into the separate account. The \$110,000 in general fund monies transferred from ATU Local 587 were considered loans and contributions to the ATU Local 587 No on I-745 Committee and should have been reported as loans and contributions received at the time the transfers were made.

ATU Local 587 No on I-745 Committee received special assessment funds from its members, withheld by King County, as follows:

- September 28, 2000 \$32,351.29
- October 12, 2000 \$31,411.18
- October 26, 2000 \$30,796.02

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• November 9, 2000	\$30,723.85
• November 29, 2000	<u>\$30,714.90</u>
Total Received	\$155,997.24

There were two additional deposits made by the ATU Local 587 No on I-745 Committee. On October 26, 2000, a \$550 deposit was made, representing an assessment collected from employees of the ATU Local 587 Laidlaw bargaining unit. On November 17, 2000, a \$1,000 deposit was made, representing a partial refund of a contribution previously made to the ATU Legislative Committee No on I-745.

ATU Local 587 No on I-745 Committee used the special assessment funds to make political contributions. ATU Local 587 No on I-745 Committee contributed \$75,000 to Citizens for Real Transportation Choices, a political committee, on October 4, 2000. They also made a \$60,000 contribution to Citizens for Real Transportation Choices on October 12, 2000. ATU Local 587 No on I-745 Committee made a \$13,000 contribution to ATU Legislative Council Committee No I-745 on October 14, 2000. ATU Local 587 No on I-745 Committee made political contributions totaling \$148,000 in its effort to oppose I-745. (On November 17, 2000, the ATU Local 587 No on I-745 Committee received a \$1,000 refund from the ATU Legislative Council Committee No on I-745, thereby reducing total political contributions made to \$147,000.)

In addition, there were two additional expenditures made from the ATU Local 587 No on I-745 Committee to the ATU Local 587 general fund to repay the initial loans. On November 13, 2000, \$50,000 was returned to the ATU Local 587 general fund. On November 30, 2000, an additional \$50,000 was returned to the general fund.

ATU Local 587 No on I-745 Committee also made expenditures to directly oppose I-745. For example, it purchased car window stickers for its members. It also made expenditures to refund special assessments for members who signed a waiver form after the assessment was withheld.

V. CONCLUSION

Staff alleges, based on the facts specified in Section IV, that ATU Local 587 and ATU Local 587 No on I-745 Committee violated **RCW 42.17.040 – 42.17.090** by soliciting and accepting contributions from its members without registering and reporting as a political committee. Through its actions, ATU Local 587 formed a political committee called ATU Local 587 No on I-745 Committee.

The committee first had the expectation of receiving contributions and making expenditures to oppose I-745 on August 25, 2000, when Paul Griffin, Financial Secretary for ATU Local 587, notified King County Payroll Supervisor Mildred Llarenas that the union membership had elected to assess each member \$50 in special dues to “fight I-745.”

ATU Local 587 No on I-745 Committee first accepted contributions on September 14, 2000 when it accepted a \$10,000 transfer from the ATU Local 587 general fund. It accepted its first assessments from ATU Local 587 members on September 28, 2000. \$155,997.24 was accepted from its members through a special assessment collected and remitted by King County between September 28 and November 23, 2000. In addition, \$550 was accepted on October 26, 2000 from ATU Local 587 Laidlaw Bargaining Unit members. The committee made contributions totaling \$147,000 to committees opposing I-745.

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ATU Local 587 and ATU Local 587 No on I-745 Committee failed to:

1. Register as a political committee and file a Committee Registration Statement (PDC form C1-pc) in violation of RCW 42.17.040;
2. File ten Cash Receipts Monetary Contributions Reports (PDC form C-3) for contributions received in violation of RCW 42.17.080 and RCW 42.17.090;
3. File five summary reports of contributions and expenditures (PDC form C-4) due on the following dates: (1) October 17, 2000 (21-day pre-general C-4 report); (2) October 31, 2000 (7-day pre-general C-4 report); (3) December 11, 2000 (post-election C-4 report); (4) January 10, 2001 C-4 report; and (5) April 10, 2001 C-4 report.

RESPECTFULLY SUBMITTED this 11th day of July, 2001.

Philip E. Stutzman
Director of Compliance